

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GEORGE VELASQUEZ,

Plaintiff,

v.

No. 1:19-cv-01120-KK

MICHELLE LUJAN GRISHAM,
KEN ORTIZ,
MAGGIE TOULOSE OLIVER,
HECTOR BALDERAS,
BEN RAY LUJAN, and
STEVEN SALAS,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court on Plaintiff's Complaint About Fraud, Misrepresentation, Doc. 1, filed December 2, 2019 ("Complaint").

As the party seeking to invoke the jurisdiction of this Court, Plaintiff bears the burden of alleging facts that support jurisdiction. *See Dutcher v. Matheson*, 733 F.3d 980, 985 (10th Cir. 2013) ("Since federal courts are courts of limited jurisdiction, we presume no jurisdiction exists absent an adequate showing by the party invoking federal jurisdiction"); *Evitt v. Durland*, 243 F.3d 388 *2 (10th Cir. 2000) ("even if the parties do not raise the question themselves, it is our duty to address the apparent lack of jurisdiction sua sponte") (quoting *Tuck v. United Servs. Auto. Ass'n*, 859 F.2d 842, 843 (10th Cir.1988)).

A complaint must contain "a short and plain statement of the grounds for the court's jurisdiction." The Complaint in this case states: "Jurisdiction of this Court is found upon 28 U.S.C. § 1331. (The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.)." Complaint at 4. Plaintiff alleges

that Defendants have violated the following federal regulations: (i) 5 CFR § 2635.701 Overview; (ii) 5 CFR § 2635.702 Use of public office for private gain; (iii) 5 CFR § 2635.703 Use of nonpublic information; (iv) 5 CFR § 2635.704 Use of Government property; and (v) 5 CFR § 2635.705 Use of official time. *See* Complaint at 3.

The federal regulations that Plaintiff alleges Defendants violated only apply to employees of the United States Government. *See* 5 CFR § 2635.601(a) ("To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations"). Federal "employee" "includes employees of a State or local government or other organization who are serving on detail to [a federal] agency." 5 CFR § 2635.102(h). Plaintiff has not alleged that Defendants are federal employees. Nor are there any allegations that this case arises under any other federal laws. Plaintiff, therefore, has not met his burden of alleging facts that support federal question jurisdiction. *See* Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action").

IT IS ORDERED that Plaintiff may, within 21 days of entry of this Order, either show cause why the Court should not dismiss this case for lack of jurisdiction or file an amended complaint that contains a short statement of the grounds for the Court's jurisdiction and alleges facts that support jurisdiction. Failure to timely show cause or file an amended complaint that shows the Court has jurisdiction over this matter may result in dismissal of the case.


UNITED STATES MAGISTRATE JUDGE